## REMARKS

Claims 22-51 presently appear in this case. Claims 36 and 38-51 have been allowed. Claims 22-35 and 37 have been rejected. The official action of June 6, 2002, has now been carefully studied. Reconsideration and allowance are hereby respectfully urged.

Briefly, the present invention relates to a method for treating a viral infection by administering a dose of interferon which is in excess of a dose of the same interferon which induces a pathological response when parenterally administered, and the dose is greater than $20 \times 10^6$ IU for a 70 kg human. The interferon is administered to a mammal which has a viral infection and is used for treating the infection, as opposed to mere prophylaxis. The oromucosal administration is in a manner which does not involve direct action of the interferon on virally infected cells. Furthermore, when the condition is a rhinovirus, the interferon is not administered through the mouth by multiple or continuous dosages.

Claims 22-35 and 37 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Eby III patent. The examiner states that the claims read on the prior art for the oromucosal administration of up to 20,000,000 units. The examiner states that the instant claims are directed to

greater than 20,000,000 and that a showing over the prior art is needed. This rejection is respectfully traversed.

Claim 37 has now been amended to specify that the amount used is greater than about $30 \times 10^6$ IU. This language is supported in the disclosure at page 8, lines 13-14. As 30,000,000 units is substantially more than the maximum of 20,000,000 units disclosed by Eby III, and as there is no motivation for anyone of ordinary skill in the art to use such a large amount in view of the maximum of 20,000,000 units disclosed by Eby III, it is believed that the present claims now fully define over the prior art of record. Reconsideration and withdrawal of this rejection are, therefore, respectfully urged.

It should be noted for the record that any amount of interferon substantially greater than the 20,000,000-unit maximum of Eby III would define obviousness over Eby III. However, the description requirement of 35 U.S.C. §112 requires that any number used in the claim be supported by the specification. The lowest number greater than 20,000,000 which is used in the specification is "about $30 \times 10^6$". Thus, the present amendment specifying that the minimum amount used is greater than about $30 \times 10^6$ IU is not being used because it is the minimum amount which defines over the prior art, but is being used because applicant is forced to use this number by

the written description requirement of 35 U.S.C. §112. Therefore, reasons other than prior art reasons dictate this parameter, and applicant expressly does not dedicate to the public the use of amounts substantially greater than 20,000,000 IU but substantially less than 30,000,000 IU. Applicant's claims should, therefore, be interpreted accordingly for the purpose of prosecution history estoppel analysis of a doctrine of equivalence determination.

It is submitted that all of the claims now present in the case clearly define over the references of record and fully comply with 35 U.S.C. §112. Reconsideration and allowance are earnestly solicited.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "Version with markings to show changes made".

Respectfully submitted,

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**Version with Markings to Show Changes Made**

Claim 37 has been amended as follows:

37 (Amended). A method for treating a viral infection, which method comprises administering to the mammal having such a viral infection greater than ~~20~~ about 30 $\times 10^6$ IU of an interferon via oromucosal contact, said amount being in excess of a dose of the same interferon which induces a pathological response when parenterally administered, said oromucosal administration being in a manner which does not involve direct action of the interferon on virally infected cells.